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June 21, 2002

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWB-204  
Washington, DC 20554

Re: Application by Verizon-New Jersey Inc. for Authorization to Provide In-Region, InterLATA Services in the State of New Jersey, Docket 02-67

Dear Ms. Dortch:

In a supplemental response to AT&T's Motion For Emergency Relief in this proceeding that Verizon filed last night, Verizon makes the extraordinary argument that its New Jersey application should not be denied, because its many violations of the Act could have been even worse. Verizon contends that if it "had wished to 'market aggressively its long distance services' in New Jersey, it[] . . . would have run systematic, high-visibility advertisements in various media telling all New Jersey residents" about those long distance services.<sup>1</sup> It is now clear that Verizon did (and continues to do) just that.

This letter, the attached declaration of Mary Wojchik, and the attached streaming video file of a Verizon advertisement that aired on a New Jersey cable channel on Wednesday, June 19 provide yet additional evidence of Verizon's unlawful – and apparently still ongoing – long distance campaign in New Jersey. Even before this latest development, it was quite clear that Verizon planned and orchestrated a comprehensive multi-channel long distance marketing campaign that was intentionally scheduled to, and actually did, commence well before completion of the Commission's statutory review Verizon's Section 271 application. Moreover, and more important, it is now clear that the efforts by AT&T and others to bring this misconduct to the Commission's attention have not, as Verizon claims, caused Verizon to come clean and put a stop to its unlawful activities, and there is thus no basis to conclude that Verizon can or will

<sup>1</sup> See Verizon's Supplemental Response to AT&T's Reply in Support of Motion for Emergency Relief (filed June 20, 2002) at 1. Although AT&T does not doubt that there could have been more and even worse violations, the violations that have already been revealed (including billing inserts, direct mailings, and telemarketing) alone constitute "aggressive" marketing by Verizon of the long distance service it is not authorized to provide.

unilaterally cease its flagrant disregard of the law. To the contrary, swift Commission action is now necessary to redress Verizon's ongoing violations and convince Verizon to comply with the core requirements of the 1996 Act in the future.<sup>2</sup>

In particular, it is now manifest that, in addition to the bases demonstrated by AT&T and other opponents for finding that Verizon has not met the statutory requirements for long distance authority in New Jersey, Verizon's current misconduct independently forecloses the affirmative findings needed to grant Verizon's application. There can be no serious dispute that Verizon's ongoing multifaceted marketing activities *violate* Section 271, a fact that should in and of itself preclude a finding of Section 271 *compliance*. Further, Verizon's apparent intention to launch a coordinated unlawful marketing assault timed to "jump the gun" on the Commission's review of its Section 271 application raises serious questions about whether Verizon has complied with the requirements of Section 272 that its long distance affiliate not obtain improper or discriminatory advantage from its monopoly parent. There certainly could be no sustainable finding by the Commission on this record that "the requested authorization will be carried out in accordance with the requirements of 272." 47 U.S.C. § 271(d)(3)(B). At a minimum, the Commission must investigate whether the unlawful Verizon marketing activities are the result of improper marketing, financial or strategic "direction" provided by Verizon to its long distance affiliate. Finally, there is simply no sustainable basis for the Commission to find that granting Verizon's application is in the "public interest," as Section 271 plainly requires, in the face of these flagrant, ongoing, and apparently unrepented violations. The Commission must take these issues into account in considering and, AT&T submits, rejecting the New Jersey application.

Ms. Wojchik, a marketing employee in AT&T's Consumer Services division, resides in Bedminster, New Jersey and purchases cable service from Cablevision of Raritan Valley, New Jersey. *See* June 20, 2002 Declaration of Mary Wojchik at ¶ 1, 3. On Wednesday evening, June 19, Ms. Wojchik viewed (and taped) a Verizon advertisement aired on the "New Jersey News 12" channel carried by Cablevision. *Id.* at ¶ 4.<sup>3</sup> In that advertisement (an electronic copy of which is attached hereto), the Verizon spokesperson urges viewers – and New Jersey News 12 is apparently carried *only* in New Jersey – to "ask about our low long distance rate" as the screen flashes "All on one bill" and provides the toll-free Verizon number. Later in the advertisement, additional text appears: "Save on long distance," "8 ¢ a minute." The ad also makes clear that the advertised long distance service is "provided by Verizon Long Distance." Although "where available" appears at the bottom of the screen, Verizon Long Distance service cannot, of course, lawfully be available *anywhere* in New Jersey.

New Jersey News 12 is produced by News 12 Networks, which is owned and managed by Rainbow Media Holdings, Inc., a subsidiary of Cablevision. Each of the News 12 Networks

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<sup>2</sup> Indeed, the attached Verizon e-mail apparently distributed to the press by Verizon's Vice President for Media Relations suggests that the discovery of its violations is all a big joke to Verizon – Verizon there characterizes AT&T's very serious (and well documented) allegations as "silliness" and "fraternity pranks."

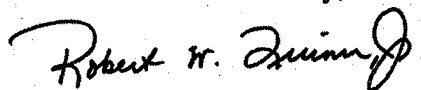
<sup>3</sup> Ms. Wojchik was prepared to tape the advertisement, because on Saturday, June 15, 2002, she saw another Verizon cable advertisement offering long distance service and, as a member of the AT&T Consumer marketing team, was well aware that Verizon did not have authority to offer long distance service in New Jersey. Wojchik Declaration at ¶ 3.

(New Jersey, the Bronx, Westchester, Connecticut, and Long Island) provides local news tailored to the particular market. See <http://www.rainbow-media.com/about/index.html>; <http://www.rainbow-media.com/regbus/news12.html> www. news12.com. New Jersey News 12, by far the largest of the News 12 channels, is distributed on Cablevision's New Jersey cable systems to more than 1.7 million subscribers (more than all of the other News 12 Networks combined). As stated in documents obtained from News 12 sales by AT&T's media buyers, advertisers may selectively purchase advertising spots on individual News 12 networks.<sup>4</sup> Thus, the fact that Ms. Wojchik saw the Verizon long distance advertisement in New Jersey on New Jersey News 12 demonstrates that Verizon *affirmatively chose* to include New Jersey News 12 in its ad buy, notwithstanding that Verizon lacks authority to provide that service in New Jersey. That is fully consistent with Verizon's conceded instructions to vendors associated with its other marketing channels to market Verizon's long distance service in New Jersey, and it confirms yet again that the Commission must act now and that Verizon's New Jersey application should be suspended or denied pending a full Commission investigation.

For the foregoing reasons and those stated in AT&T's prior submission, AT&T respectfully requests that the Commission deny Verizon's New Jersey application (or, alternatively, suspend consideration of the application pending an investigation). If, however, the Commission grants the application, AT&T respectfully requests that the Commission stay the effectiveness of the Order pending appellate review.

One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Sincerely,



Robert W. Quinn, Jr.

cc: Dorothy Attwood  
Kyle Dixon  
Bryan Tramont  
Sam Feder  
Jordan Goldstein  
Brent Olsen  
Alexis Johns

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<sup>4</sup> The documents obtained from News 12 sales are attached hereto. See also [http://www.rainbow-media.com/adsales/news12\\_sales.html](http://www.rainbow-media.com/adsales/news12_sales.html) ("News 12 sales represents each channel's local inventory, as well as selling them together as a 'ring' around the NY market").

**Affidavit of Mary Wojchik**

I, Mary Wojchik, being duly sworn according to law, depose and say that:

1. I am a resident of New Jersey. My home is located at 1 Harrow Lane, Bedminster, New Jersey 07921. I am a Staff Manager for AT&T Consumer Services with AT&T Corp.

2. The matters stated in this Affidavit are of my own personal knowledge and, if called upon to do so, I could and would competently testify to each of them.

3. On Saturday, June 15, 2002, I was at home watching television on my local cable system, which is Cablevision of Raritan Valley, New Jersey. At that time, I saw a Verizon television ad offering long distance service. To the best of my recollection, I saw the ad on New Jersey News 12, which is a New Jersey-only cable station. As a member of the AT&T Consumer marketing team, I was well aware that Verizon did not have authority to offer long distance service in New Jersey. Consequently, I was surprised to see the Verizon ad on a New Jersey-only station.

4. On Wednesday, June 19, at approximately 8.00 pm, I used my home VCR recorder to tape another Verizon television ad on New Jersey News 12 carried by Cablevision of Raritan Valley, New Jersey. During the ad, the following words are heard:

"At Verizon we wanna make staying in touch easier and more affordable for everyone. With our local package you can save on all the things you need to communicate. It's unlimited local calling together with our most popular services like caller id, call waiting and three-way calling. So you

have everything you need whether you're avoiding interruptions, getting every call or talking with two friends at once and it all comes on one bill for one low monthly rate. Call 1-800-298-5843 for great savings and unlimited local calls and ask about our low long distance rate too. Altogether you'll see how the savings really add up. Have some of these services? You can still save. Call 1-800-298-5843 and save with our local package. Because we see the value of togetherness and what that means to you."

5. During the ad, the following text appears on-screen:

"Verizon Local Package

Not all services available in all areas

1 800 298-5843

Unlimited Local Calling

Not all services available in all areas

1 800 298-5843

Caller Id

Call Waiting

Three-way calling and more

Standard taxes and service charges apply

1 800 298-5843

Limited Interruptions

1 800 298-5843

1 800 298-5843

Keep in touch

Get everyone together

1 800 298-5843

All on one bill

1 800 298-5843

Great Savings

Savings based on bundling of all services

vs. purchasing separately

1 800 298-5843

Save on long distance

8¢ a minute

Service provided by Verizon Long Distance

where available.

1 800 298-5843

Caller Id

Call Waiting

Three-way calling

**1 800 298-5843**

**Verizon Local Package**

**Great Savings**

**1 800 298-5843**

**Verizon**

**Make Progress Everyday**

**1 800 298-5843."**

I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct. Executed in Basking Ridge, New Jersey on June 20, 2002.



Mary Wojchik

Sworn to and subscribed to before  
me this 20<sup>th</sup> day of June 2002



A Notary Public of the  
State of New Jersey

**THERESA DONATIELLO**  
**NOTARY PUBLIC OF NEW JERSEY**  
**My Commission Expires November 9, 2004**



----- Original Message -----

From: Eric Rabe <eric.rabe@clsdc.com>

At: 6/20 9:32

NOTE: Please disregard previous "Verizon Update." Corrected version follows.

Summer officially begins on June 21st with the Solstice, but at AT&T, the silly season is already underway.

Over the last week or so, in a series of trigger happy regulatory filings, the long distance company that may be the shortest for this world, has accused Verizon of everything short of being responsible for global warming.

In one case, the company's lawyers filed a complaint based on the alleged experience of a single customer in New Jersey. The customer turns out to be an AT&T employee. In another case, the AT&T gripe is based on a single letter to a small business.

This series of breathless anecdotes is supposed to support AT&T's demand (yet again!) that the ban preventing New Jersey customers from getting Verizon long distance service be extended a while longer. Nonsense.

The facts are clear. The New Jersey market is wide open to competition. All the systems have been proven to work beyond any doubt during years of independent testing. Competitors are in the marketplace. Even AT&T is no longer arguing that the case has not been made.

So let's end the fraternity pranks. Meet us in the marketplace. We are glad to meet you there. But please AT&T, give up on this silliness.

Any thoughts or questions, please give me a call or drop me a line.

Eric Rabe  
VP, Media Relations, Verizon  
215-963-6531



fortune off

ON

NEWS 12

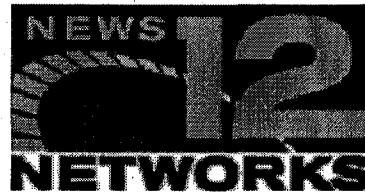
1/15/2002

COVERAGE: 3.3 MILLION HOMES

FLIGHT: MAX EVENT MARCH -3 WEEKS

<u>DAYPART</u>	<u>FREQUENCY</u>	<u>:30</u>	<u>TOTAL</u>	<u>DMA</u> <u>A25-54</u>
M-F 5:30a-9a	3 X	\$625	\$1,875	0.83
M-F 9a-5p	3 X	nc		0.3
M-F 6p-12a	3 X	\$525	\$1,575	0.72
<b>TOTAL</b>	<b>9 X</b>	<b>COST</b>	<b>\$3,450</b>	





# NEWS 12

**COVERAGE: 3.3 MILLION HOMES**

**NEWS 12 NEW JERSEY**

**1,770,000**

**HOMES**

Bergen  
Passaic  
Sussex  
Morris  
Essex  
Hudson  
Union  
Warren  
Huntern  
Somerset  
Middlesex  
Mercer  
Monmouth  
Ocean

**NEWS 12 LONG ISLAND**

**800,000**

**HOMES**

Nassau  
Suffolk

**NEWS 12 WESTCHESTER, NY**

**270,000**

**HOMES**

**NEWS 12 BRONX**

**260,000**

**HOMES**

**NEWS 12 FAIRFIELD, CT**

**200,000**

**HOMES**

*All zones are independent and can be purchased that way.*





fortune off

ON  
**NEWS 12**

1/15/2002

**COVERAGE: 3.3 MILLION HOMES**

**FLIGHT: outdoor furniture MARCH -15 weeks**

<u>DAYPART</u>	<u>FREQUENCY</u>	<u>:30</u>	<u>TOTAL</u>	<u>DMA</u> <u>A25-54</u>
M-F 5:30a-9a	5 X	\$625	\$3,125	0.83
M-F 9a-5p	5 X	nc		0.3
M-F 6p-12a	5 X	\$525	\$2,625	0.72
<b>TOTAL</b>	<b>15 X</b>	<b>COST</b>	<b>\$5,750</b>	





**3,341,000 HOMES**

**News 12 New Jersey**

**1,771,000 HOMES**

Toms River  
Manahawken  
Dover Elizabeth  
Edison  
Bridgewater  
Bayonne  
Cresskill  
Newark  
Paterson  
Wayne  
Wall Township  
Freehold  
Seaside Heights  
Hoboken  
Port Murray  
East orange  
Eatontown  
Hightstown  
Jersey City  
Lyndhurst  
Plainfield  
Point Pleasant  
Union  
Woodbridge  
Long Beach  
Sparta  
Palisades Park

**News 12 Long Island**

Riverhead  
Huntington  
Hauppauge  
Babylon  
Brookhaven  
Oyster Bay  
Hempstead

**805,000**

**HOMES**

**News 12 Westchester**

Mamaroneck  
Port Chester  
Yonkers  
Yorktown Heights  
Ossining  
**275,000 HOMES**

**News12 Connecticut**

Bridgeport  
Fairfield  
**220,000 HOMES**

**News 12 Bronx**  
**270,000 HOMES**